

REMARKS

Claims 1-20 are pending in the application.

Claims 1-20 have been rejected.

No amendments to the Claims have been made.

Reconsideration of the Claims is respectfully requested.

I. REJECTION UNDER 35 U.S.C. § 102

Claims 1, 2, 12, 13, 15 and 16 were rejected under 35 U.S.C. § 102(e) as being anticipated by Brisebois et al. (US 6,310,944). The rejection is respectfully traversed.

A cited prior art reference anticipates the claimed invention under 35 U.S.C. § 102 only if every element of a claimed invention is identically shown in that single reference, arranged as they are in the claims. MPEP § 2131; *In re Bond*, 910 F.2d 831, 832, 15 U.S.P.Q.2d 1566, 1567 (Fed. Cir. 1990). Anticipation is only shown where each and every limitation of the claimed invention is found in a single cited prior art reference. MPEP § 2131; *In re Donohue*, 766 F.2d 531, 534, 226 U.S.P.Q. 619, 621 (Fed. Cir. 1985).

Regarding independent Claims 1, 12 and 15, the Office Action asserts that Brisebois discloses “that upon receipt of the incoming communication, examining the context information (i.e., log) and based on previous communications from the calling party (i.e., originator), assessing the urgency.” See, Office Action, page 2. However, the passages cited by the Office Action do not appear to recite that the urgency assessment is “... implemented by a computer,”

as recited in independent Claims 1, 12 and 15. Therefore, the Office Action has failed to demonstrate anticipation of each and every element of the Applicant's independent Claims 1, 12 and 15 (and dependent Claims 2, 13 and 16) arranged as they are in the claims.

Accordingly, the Applicant respectfully requests the Examiner withdraw the § 102(e) rejection of Claims 1, 2, 12, 13, 15 and 16.

II. REJECTIONS UNDER 35 U.S.C. § 103

Claims 3 and 4 were rejected under 35 U.S.C. § 103 as being unpatentable over Brisebois et al. in view of Smith et al. (US 6,141,412). Claims 5 and 6 were rejected under 35 U.S.C. § 103 as being unpatentable over Brisebois et al. in view of Javitt (US 5,787,162). Claims 7 and 8 were rejected under 35 U.S.C. § 103 as being unpatentable over Brisebois et al. in view of Javitt and further in view of Arledge et al. (US 5,561,703). Claims 9, 10, 14 and 18 were rejected under 35 U.S.C. § 103 as being unpatentable over Brisebois et al. in view of Arledge et al. Claim 11 was rejected under 35 U.S.C. § 103 as being unpatentable over Brisebois et al. in view of Arledge et al. and further in view of Miller, Jr. (US 6,442,249). Claim 17 was rejected under 35 U.S.C. § 103 as being unpatentable over Brisebois et al. in view of Lunn et al. (US 6,075,848). Claim 19 was rejected under 35 U.S.C. § 103 as being unpatentable over Brisebois et al. in view of Arledge et al. and Miller, Jr. and further in view of Benson et al. (US Pub. No. 2002/0067820). Claim 20 was rejected under 35 U.S.C. § 103 as being unpatentable over Brisebois et al. in view of Miller, Jr. These rejections are respectfully traversed.

Applicant believes that Briseboise et al. is unavailable as prior art under 35 U.S.C. § 103 against the present application because Briseboise et al. and the present application are both assigned to Nortel Networks Limited. See Brisebois et al. Assignee and the Assignment Document in the present application recorded at Reel/Frame 011383/0926. Under 35 U.S.C. § 103(c), subject matter which is prior art under 35 U.S.C. § 102(e) is disqualified as prior art under 35 U.S.C. § 103(a) if the subject matter and the claimed invention “were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person.” As a result, Brisebois is unavailable as “prior art” under 35 U.S.C. § 103 against the present application, and the Office Action has failed to establish a prima facie case of obviousness with respect to Claims 3-11, 14 and 17-20.

Accordingly, the Applicant respectfully requests withdrawal of the § 103 rejection of Claims 3-11, 14 and 17-20.

III. CONCLUSION

As a result of the foregoing, the Applicant asserts that the remaining Claims in the Application are in condition for allowance, and respectfully requests an early allowance of such Claims.

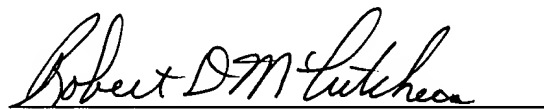
If any issues arise, or if the Examiner has any suggestions for expediting allowance of this Application, the Applicant respectfully invites the Examiner to contact the undersigned at the telephone number indicated below or at *rmccutcheon@davismunck.com*.

The Commissioner is hereby authorized to charge any additional fees connected with this communication or credit any overpayment to Davis Munck Deposit Account No. 50-0208.

Respectfully submitted,

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Date: 5/13/2004



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